

AMERICAN ARBITRATION ASSOCIATION

STEPHEN F. EMERY, M.D. and)
BEARTOOTH ORTHOPAEDIC)
AND SPINE, P.C., JAY WINZENRIED,)
M.D., and BIG HORN BASIN BONE)
AND JOINT, LLC,)
)
Claimants,)
)
v.)
)
MERIDIAN SURGICAL PARTNERS -)
MONTANA, LLC, and MERIDIAN)
SURGICAL PARTNERS, LLC)
)
Respondents.)

DEMAND FOR ARBITRATION

COME NOW the Claimants, Stephen F. Emery, M.D. and Beartooth Orthopaedic and Spine, P.C., Jay Winzenried, M.D., and Big Horn Basin Bone and Joint, LLC by and through their attorneys, Stinson Law Group, P.C., and respectfully submit this *Demand for Arbitration* for consideration.

Claimants:

Stephen F. Emery, M.D.
 and, as applicable, Beartooth Orthopaedic and Spine, P.C.
 720 Lindsay Lane, Suite C
 Cody, Wyoming 82414
 Phone: (307) 578-1955
 Fax: (307) 578-1979
 Email: semery@bhbbj.com
 With a copy to: sgibbons@bhbbj.com

Jay Winzenried, M.D.
and, as applicable, Absaroka Orthopaedics
424 Yellowstone Ave Suite 140
Cody, Wyoming 82414
Phone: (307) 527-7100
Fax: (307) 527-7145
Email: j1vj2k12h@aol.com
-- email is rarely checked or used --
with a copy to: absarokaortho@hotmail.com

Big Horn Basin Bone and Joint, LLC
720 Lindsay Lane, Suite C
Cody, Wyoming 82414
Phone: (307) 578-1955
Fax: (307) 578-1979
Email: Fschmidt@bhbbj.com
With a copy to: sgibbons@bhbbj.com

Claimants' Representatives:

Laurence W. Stinson
Stinson Law Group, PC
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Cody, WY 82414
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Ragain Law Firm
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Respondents:

Meridian Surgical Partners – Montana, LLC
5141 Virginia Way, Suite 420
Brentwood, Tennessee 37027

Meridian Surgical Partners, LLC
5141 Virginia Way, Suite 420
Brentwood, Tennessee 37027

(referred to collectively or individually as "Respondent")

Respondents' Representative:

Michael L. Dagley
Bass Berry & Sims PLC
150 Third Avenue South, Suite 280
Nashville, Tennessee 37201
Phone: (615) 742-6200
Fax: (615) 742-2803
Email: mdagley@bassberry.com

Nature of the Claim

Claimant Stephen F. Emery, MD is a medical doctor who resides in Cody, Wyoming. Claimant Beartooth Orthopaedic and Spine, P.C. is a Wyoming Professional Corporation of which Claimant Emery is the principal shareholder. Claimant Jay Winzenried, M.D. is a medical doctor who resides in Cody, Wyoming. Claimant Absaroka Orthopaedics is a Wyoming corporation of which Claimant Winzenried is the principal shareholder. Claimant Big Horn Basin Bone and Joint, LLC is a Wyoming limited liability company that owns a medical practice in Cody, Wyoming.

Respondent Meridian Surgical Partners – Montana, LLC is a Delaware limited liability company organized for the purpose of establishing, owning and managing an ambulatory surgery center. Respondent Meridian Surgical Partners, LLC is the parent or controlling party of Meridian Surgical Partners – Montana, LLC and is liable through doctrines of Respondent superior and or vicarious liability, and potentially by other legal doctrines. It is believed that Meridian Surgical Partners – Montana, LLC is wholly controlled by Meridian Surgical Partners, LLC.

In July, 2010, the Respondents, Claimants Emery, Winzenried and Big Horn Basin Bone and Joint, LLC and certain nonparties to this arbitration, formed Orthopaedic Neuro Institute Surgical Center, LLC ("ONI LLC"), a Delaware limited liability company for the purpose of establishing and operating an ambulatory surgery center located at or near Billings, Montana. Claimants Emery, Winzenried, Big Horn Basin Bone and Joint, LLC, Respondents and certain other nonparties are currently members of ONI LLC.

In forming ONI LLC, the parties executed an operating agreement, which imposed certain duties upon the parties with respect to establishing and operating the planned ambulatory surgery center. A copy of the Operating Agreement is attached as Exhibit "1". Further, Respondent Meridian Surgical Partners – Montana, LLC entered into a Management Services Agreement with ONI LLC on the same date as the parties entered into the operating agreement, which Management Service Agreement is referenced in the operating agreement, and the relevant terms of which were presented to the Claimants in Respondent's private placement memorandum for ONI LLC. The Management Services Agreement imposed certain duties upon the parties with respect to establishing and operating the planned ambulatory surgery center. A copy of the Management Services Agreement is attached as Exhibit "2".

This dispute arises out of the parties' respective rights and duties under the operating agreement and management agreement referenced therein. Respondents have breached their express and implied duties under these agreements, which breaches have damaged these Claimants and other members of ONI LLC. In reliance on Respondents' promises of performance under the operating agreement and the Management Services Agreement, Claimant Emery, personally and through Claimant Beartooth Orthopaedic and Spine, P.C., Claimant Winzenried, and Claimant Big Horn Basin Bone and Joint, LLC made certain investments in, and incurred liabilities related to, associated business ventures to facilitate the business of ONI LLC, and otherwise changed position to their detriment. The Claimants assert the following claims against Respondents:

- 1) Breach of the express provisions of the operating agreement and the management services agreement referenced therein;

- 2) Breach of the implied provisions of the operating agreement and the management services agreement referenced therein;
- 3) Breach of the operating agreement and the management services agreement referenced therein by failure to perform;
- 4) Breach of fiduciary duty;
- 5) Breach of the implied covenant of good faith and fair dealing;
- 6) Promissory estoppel;
- 7) Intentional misrepresentation;
- 8) Negligent misrepresentation;
- 9) Fraudulent concealment; and
- 10) Breach of duty of care.

Certain of these claims or causes may not be subject to arbitration but are identified herein to place Respondents and the A.A.A. on notice.

Agreement to Arbitrate

Pursuant to Section 13.11(c) of the Operating Agreement, and Section 8.3 of the Management Services Agreement, the parties have agreed to arbitrate "All disputes with respect to the interpretation of the provisions" of the agreements. Extra-contractual claims may need to be adjudicated at law.

Relief Sought and Amount Involved

Claimants seek all relief and damages to which they are entitled under the law, including but not limited to compensatory and incidental damages totaling at least the amounts set forth below:

STEPHEN F. EMERY, M.D. and BEARTOOTH ORTHOPAEDIC AND SPINE, P.C.:

ORTHOPAEDIC NEURO INSTITUTE SURGICAL CENTER, LLC

CAPITAL CONTRIBUTION	\$120,000
LOAN GUARANTEE	\$235,807
LOSS OF INCOME	\$574,446

ONI REALTY INVESTORS, LLC

CAPITAL CONTRIBUTION BALANCE	\$67,272
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LOAN GUARANTEE	\$169,657
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OMNI ORTHOPEDICS, LLC

CAPITAL CONTRIBUTION	\$69,700
LOAN GUARANTEE	\$24,518

OPERATING EXPENSES FOR BILLINGS SURGERY OFFICE:

ADVERTISING	\$9,195
PROFESSIONAL FEES	\$12,528

EMERY GRAND TOTAL	\$1,277,123.00
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JAY WINZENRIED, M.D. GRAND TOTAL:	\$771,795.40
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BIG HORN BASIN BONE AND JOINT, LLC:

ORTHOPAEDIC NEURO INSTITUTE SURGICAL CENTER, LLC

CAPITAL CONTRIBUTION	\$120,000
LOAN GUARANTEE	\$235,807
LOSS OF INCOME	\$574,446

ONI REALTY INVESTORS, LLC

CAPITAL CONTRIBUTION BALANCE	\$67,272
LOAN GUARANTEE	\$169,657

OMNI ORTHOPEDICS, LLC

CAPITAL CONTRIBUTION	\$69,700
LOAN GUARANTEE	\$24,518

OPERATING EXPENSES FOR BILLINGS SURGERY OFFICE:

PHYSICIANS ASSISTANT	\$95,474
SECRETARY	\$22,959
PAYROLL TAXES	\$4,421
BENEFITS	\$9,531
ADVERTISING	\$47,123
OFFICE EQUIPMENT	\$7,894
TRAVEL & MEALS	\$4,584
LICENSE AND FEES	\$1,947
OFFICE, COMPUTER, & INTERNET EXPENSES	\$1,349
PROFESSIONAL FEES	\$28,210
X-RAY EXPENSE	\$2,505

BHBB&J GRAND TOTAL

\$1,481,398

In accordance with the operating agreement, Claimants also seek all costs, expenses and attorney fees incurred in bringing this action.

Hearing Locale

Pursuant to the above-referenced agreements to arbitrate, arbitration is to occur in Minneapolis, Minnesota.

WHEREFORE the Claimants respectfully submit this *Demand for Arbitration*.

DATED this 6th day of February, 2014.



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STINSON LAW GROUP, P.C.
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Cody, Wyoming 82414
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Fax (307) 527-6092
Attorney for Claimants

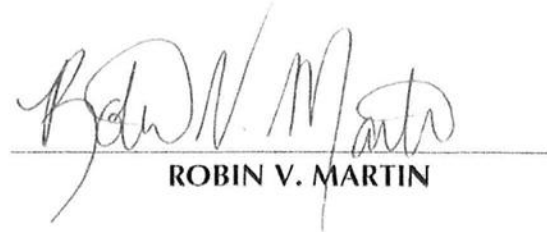
and

JIM RAGAIN
RAGAIN LAW FIRM
3639 Ave. B, Ste A2
Billings, MT 59102
(406) 651-8888
Fax (406) 651-8889

CERTIFICATE OF SERVICE

I, Laurence W. Stinson, attorney for the Claimants, hereby certify that on the 6th day of February, 2014, I served a true and correct copy of the foregoing by fax and placing the same in the United States mail, postage prepaid, and properly addressed to:

Michael L. Dagley
Bass, Berry & Sims, PLC
150 Third Ave., South, Suite 2800
Nashville, TN 37201



ROBIN V. MARTIN